

**SENATE FINANCE COMMITTEE STAFF
SUMMARY OF THE UNITED STATES-CENTRAL AMERICA-DOMINICAN
REPUBLIC FREE TRADE AGREEMENT IMPLEMENTATION ACT
JUNE 14, 2005**

Sec. 1. Short Title; Table of Contents.

This section provides the short title of the Act as the “Dominican Republic-Central America-United States Free Trade Agreement Implementation Act” (“Act”).

Sec. 2 Purposes.

This section sets forth the purposes of the Act, *e.g.*, to approve and implement the Free Trade Agreement between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua (“Agreement”).

Sec. 3 Definitions.

This section provides definitions for the Act.

**TITLE I – APPROVAL OF, AND GENERAL
PROVISIONS RELATING TO, THE AGREEMENT**

Title I approves the bill and establishes the general regulatory authority for the President to implement the Agreement.

Sec. 101 Approval and Entry Into Force of the Agreement.

This section provides congressional approval for the Agreement and its accompanying Statement of Administrative Action. Section 101 also provides that, once the President determines that other countries that have signed the Agreement have taken measures necessary to comply with their obligations under the Agreement, the President is authorized to provide for the Agreement to enter into force with respect to those countries that provide for the Agreement to enter into force for them.

Sec. 102 Relationship of the Agreement to United States and State Law.

This section establishes the relationship between the Agreement and U.S. law. It clarifies that no provision of the Agreement will be given effect under domestic law if it is inconsistent with federal law.

Section 102 also clarifies the relationship between the Agreement and state law and precludes any private right of action or remedy against a federal, state, or local government, or against a private party, based on the provisions of the Agreement.

Sec. 103 Implementing Actions in Anticipation of Entry Into Force and Initial Regulations.

This section provides the authority for new or amended regulations to be issued, and for the President to proclaim actions implementing the provisions of the Agreement, as of the date the Agreement enters into force.

Sec. 104 Consultation and Layover Provisions for, and Effective Date of, Proclaimed Actions.

This section sets forth consultation and layover steps that must precede the President's implementation of any duty modification by proclamation. Under the consultation and layover provisions, the President must obtain the advice of the private sector and the U.S. International Trade Commission ("ITC") on a proposed action. The President must submit a report to the Senate Committee on Finance and the House Committee on Ways and Means setting forth the action proposed, the reasons for the proposed action, and the advice of the private sector and the ITC. The Act sets aside a 60 day period following the date of transmittal of the report for the President to consult with the Committees on the action.

Sec. 105 Administration of Dispute Settlement Proceedings.

This section authorizes the President to establish or designate within the Department of Commerce an office responsible for providing administrative assistance to dispute settlement panels established under Chapter 20 of the Agreement. This section also authorizes the appropriation of funds to support this office.

Sec. 106 Arbitration of Claims.

This section authorizes the United States to utilize the Investor-State Dispute Settlement Procedures to arbitrate claims covered by the Agreement that involve government contracts.

Sec. 107 Effective Dates; Effect of Termination.

This section provides effective dates for the Act. Section 107(d) provides that the provisions of the Act (other than section 107(d) itself) will cease to be effective if the United States withdraws from the Agreement or if it terminates.

TITLE II – CUSTOMS PROVISIONS

Title II authorizes changes to U.S. customs law that are necessary or appropriate to implement the Agreement.

Sec. 201 Tariff Modifications.

This section provides that the President may proclaim the modification, continuation, or imposition of duties as the President determines to be necessary or appropriate to carry out terms of the Agreement.

Section 201 requires the President to withdraw beneficiary country status under the Generalized System of Preferences from the CAFTA-DR countries once the Agreement takes effect for them. This section also requires the President to withdraw beneficiary country status, with certain exceptions, under the Caribbean Basin Economic Recovery Act (CBERA) from CAFTA-DR countries once the Agreement takes effect for them.

Sec. 202 Additional Duties on Certain Agricultural Goods

Section 202 of the Act implements the agricultural safeguard provisions of the Agreement. The Agreement permits the United States to impose agricultural safeguard measures in the form of additional duties on imports of certain agricultural products that exceed specified volume thresholds

Sec. 203 Rules of Origin.

This section provides the rules of origin for the Agreement. It authorizes the President to modify certain of the Agreement's specific origin rules by proclamation, subject to the consultation and layover provisions of section 104 of the Act.

Under the Agreement, fabrics, yarns, or fibers that are not available in commercial quantities in a timely manner in the United States, Central America, and the Dominican Republic are treated as if they originate in an Agreement country, regardless of their actual origin, when used as inputs in the production of textile or apparel goods. The Agreement contains a "Short Supply List" of certain fabrics, yarns, and fibers that the CAFTA-DR governments have agreed are unavailable in the region. Section 203 authorizes the President to carry out provisions through which the United States will add materials to, or remove materials from, the list.

Sec. 204 Customs User Fees.

This section provides for the immediate elimination of the merchandise processing fee for goods qualifying as originating goods under the Agreement.

Sec. 205 Retroactive Application for Certain Liquidations and Reliquidations of Textile or Apparel Goods.

Section 205 provides that the United States must liquidate or reliquidate entries of textile or apparel goods of an eligible Agreement country made between January 1, 2004, and the date that the Agreement enters into force with respect to that country, provided that the goods would have been considered originating goods if the Agreement had been in force at that time.

Sec. 206 Disclosure of Incorrect Information; False Certifications of Origin; Denial of Preferential Tariff Treatment.

This section provides for the imposition of penalties on exporters and producers that issue false CAFTA-DR certifications of origin through fraud, gross negligence, or negligence. These penalties do not apply, under certain circumstances, where an exporter or producer voluntarily corrects an error.

Sec. 207 Reliquidation of Entries.

This section permits importers to claim preferential tariff treatment for originating goods within one year of their importation.

Sec. 208 Recordkeeping Requirements.

This section sets forth the requirement that a U.S. exporter or producer issuing a CAFTA-DR certification of origin keep a copy of the certification for a period of five years from the date of issuance of the certificate.

Sec. 209 Enforcement Relating to Trade in Textile or Apparel Goods.

This section provides that the Secretary of the Treasury may request CAFTA-DR countries to initiate verifications in order to determine whether claims of origin for textile or apparel goods are accurate or whether exporters are complying with applicable laws regarding trade in textile or apparel goods. Section 209 also provides that the President may direct the Secretary of the Treasury to take “appropriate action” while a verification is being conducted and after a verification has been completed. In the case of the latter, such appropriate action includes denying the entry of goods of the person subject to verification if the person has provided erroneous information regarding the origin of the goods.

Sec. 210 Regulations.

This section authorizes the Secretary of the Treasury to prescribe regulations necessary to carry out the tariff-related provisions of the Act, including the rules of origin and customs user fee provisions.

TITLE III – RELIEF FROM IMPORTS

Title III implements the Subtitle A, textile or apparel, and global safeguard provisions of the Agreement.

Sec. 301 Definitions.

This section provides definitions for this title.

Subtitle A – Relief from Imports Benefiting from the Agreement

Subtitle A of Title III of the Act authorizes the President, after an investigation and affirmative determination by the ITC, to suspend duty reductions or impose duties temporarily up to NTR (MFN) rates on a “CAFTA-DR article” when, as a result of the reduction or elimination of a duty under the Agreement, the article is being imported into the United States in such increased quantities and under such conditions as to be a substantial cause of serious injury or threat of serious injury to a domestic industry that produces like or directly competitive goods. The standards and procedures set out in these provisions closely parallel the procedures set forth in sections 201 through 204 of the Trade Act of 1974.

Sec. 311 Commencing of Action for Relief.

This section sets forth provisions regarding the commencement of Subtitle A safeguard investigations. Section 311 also exempts from investigation under this section CAFTA-DR articles that have previously been the basis for according relief under the Subtitle A safeguard. In other words, the Subtitle A safeguard can be applied only once for a particular good.

Sec. 312 Commission Action on Petition

This section establishes deadlines for ITC determinations following the initiation of a Subtitle A safeguard investigation. Section 312 also provides that, if the ITC makes an affirmative determination, the ITC must find and recommend to the President the amount of import relief that is necessary to remedy or prevent the serious injury and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

Sec. 313 Provision of Relief.

This section authorizes the President to provide relief under the Subtitle A safeguard provisions of the Act. Under this section, the President is not required to provide import relief if the President determines that the relief will not provide greater economic and social benefits than costs. Import relief under a Subtitle A safeguard may not exceed four years. In addition, import relief may not be provided under the Subtitle A safeguard for an article subject to import relief under the global safeguard provisions in U.S. law

(chapter 1 of Title II of the Trade Act of 1974) or an article of a *de minimis* supplying country.

Sec. 314 Termination of Relief Authority.

This section provides that the President’s authority to take action under the Subtitle A safeguard expires ten years after the date on which the Agreement enters into force, unless the period for elimination of duties exceeds ten years. In such case, relief may be provided until the expiration of the period for elimination of duties.

Sec. 315 Compensation Authority.

This section allows the President to provide trade compensation to Agreement countries when the United States imposes relief through a Subtitle A safeguard action.

Sec. 316 Confidential Business Information.

This section incorporates procedures regarding the release of confidential business information to apply in Subtitle A safeguard investigations.

Subtitle B – Textile and Apparel Safeguard Measures

Subtitle B of Title III of the Act implements the Agreement’s textile or apparel safeguard.

Sec. 321 Commencement of Action for Relief.

This section sets forth procedures regarding the commencement of action for relief under the Agreement’s safeguard mechanism available to domestic textile and apparel industries.

Sec. 322 Determination and Provision of Relief.

This section provides for the President to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a “CAFTA-DR textile or apparel article” of an Agreement country is being imported into the United States in such increased quantities, and under such conditions, that imports of the article cause serious damage, or threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article. Section 322 also identifies the relief that the President may provide to a U.S. industry that the President determines is facing serious damage or threat thereof.

Sec. 323 Period of Relief.

This section provides that the maximum period of relief under the textile or apparel safeguard will be three years.

Sec. 324 Articles Exempt from Relief.

This section provides that relief may not be granted to an article under the textile or apparel safeguard if relief has previously been granted under the textile or apparel safeguard, or if the article is subject to a safeguard measure of Subtitle A of Title III of the Act or a safeguard measure of Title II of the Trade Act of 1974.

Sec. 325 Rate After Termination of Import Relief.

This section provides that on the date import relief terminates, imports of the textile or apparel article that was subject to the safeguard action will be subject to the rate of duty that would have been in effect on that date in the absence of the relief.

Sec. 326 Termination of Relief Authority.

This section provides that authority to provide relief under the textile or apparel safeguard will expire five years after the date on which the Agreement enters into force.

Sec. 327 Compensation Authority.

This section authorizes the President to provide trade compensation for actions taken pursuant to the Agreement's textile and apparel safeguard provisions.

Sec. 328 Business Confidential Information.

This section sets forth provisions concerning the release of business confidential information submitted to the President in connection with the request for action pursuant to the textile and apparel safeguard provisions.

**Subtitle C – Cases Under
Title II of the Trade Act of 1974**

Sec. 331 Findings and Action on Goods of CAFTA-DR Countries.

This section authorizes the President, in granting global import relief under the Trade Act of 1974, to exclude imports of CAFTA-DR articles from the relief when certain conditions are present.

TITLE IV – MISCELLANEOUS

Sec. 401 Eligible Products.

This section provides that, for an Agreement country, an “eligible product” for government procurement purposes means a product or service of that country that is covered under the Agreement for procurement by the United States. This definition will allow U.S. government entities covered by the Agreement to purchase products and services from other Agreement countries.

Sec. 402 Modifications to the Caribbean Basin Economic Recovery Act.

This section amends the CBERA to ensure, to the extent possible, that the remaining beneficiary countries are not adversely impacted as a consequence of the removal of the CAFTA-DR countries from the CBERA and the Caribbean Basin Trade Partnership Act (CBTPA) programs. Section 402 generally will ensure that goods produced through a combination of operations in a beneficiary country and a CAFTA-DR country that would have qualified for preferential treatment under the CBERA or CBTPA before the Agreement took effect will continue to qualify for this treatment after the Agreement takes effect.